

10-2018

31/10/2018 - European Court of Justice case, C-528/17 - Obligation to pay Import VAT when exemption conditions are no longer met

ECJ has ruled that the article 143(1)(d) of the VAT Directive must be interpreted as not requiring a taxable importer to pay the VAT on imports which initially, were granted an exemption, but during a subsequent examination of the authorization, the competent customs authorities realized that the conditions of the exemption had not been met. For the VAT to be payable, it needs to be established that:

- The taxable person knew, or should have known, that the subsequent supplies were involved in fraud, and;
- The taxable person did not take all reasonable steps in order to avoid that fraud.

31/10/2018 **Italy** - Businesses affected by the Esterometro

Effective from 1 January 2019, the new electronic invoicing will only be required by companies established or with a permanent establishment in Italy.

31/10/2018 **United Kingdom** - Tax Guide for “No-deal” scenario

The HMRC has published a guidance to assist businesses in the matters of customs duties, excise duties and VAT, in the event of no Brexit deal.

The main points are:

- The free circulation and movements of goods between the UK and the EU will terminate;
- The Taxation Bill will provide UK the required powers to set its own tariff;
- Current VAT procedures will try to be maintained as closely as possible.

31/10/2018 **Italy** - Clarification regarding deduction of VAT paid on purchases of fuel and gasoline

The Italian Tax Authority published Ruling Answer No. 13 clarifying that the obligation to use adequate means of payment in order to obtain deduction of purchases of fuel and gasoline does not apply in case of purchases of fuel to be used for agricultural vehicles made by taxable persons that opted for the special regime for farmers.

31/10/2018 **Slovenia** - Distance selling included in Intrastat obligations

The obligation to submit Intrastat declarations has been extended to distance sellers. According to the change of rules, distance sellers that exceed the threshold of 140 000 EUR will have to register with the Federal Statistical Office, even in the absence of any explicit request or notification.

31/10/2018 **France** - Abolishment of “Saisonnier” VAT declarations

The periodic returns relating to seasonal activities (“Saisonnier”) will be abolished. From the end of the third quarter of 2018, all companies will submit regular quarterly or monthly VAT Returns, depending on their annual VAT due.

31/10/2018 **Italy** - Depreciable goods - adjustments to input VAT deduction

According to the article 19-bis2 of the Italian VAT Act, in case of changes of the VAT treatment regarding certain transactions of depreciable goods, the deduction of the respective VAT should also be adjusted and, in case of immovable property, within a period of 10 years.

The Italian Tax Authorities clarified, in Ruling Answer No. 3, that where an immovable property is purchased upon the conclusion of a leasing contract, by exercising the option available, the 10-year period begins on this date.

31/10/2018 **Switzerland** - New distance selling threshold

Effective from 1 January 2019, the registration threshold for distance sales will be 100 000 CHF (annually).

In this sense, if the 2018 annual turnover exceeds or the expected annual turnover in 2019 will exceed this threshold, the company has a tax liability as from 1 January 2019.

31/10/2018 **Italy** - Supply of services related to immovable propriety

The Italian Tax Authority published Law Principle No. 2, clarifying that a supply of services to a foreign purchaser, by granting the right to use an immovable property for a congress and by providing other related services during certain sports events, is deemed to be related to immovable propriety located in Italy, given that:

- The right to use the immovable property is crucial for the complete supply; and
- The other services are ancillary to the overall supply.

31/10/2018 **United Kingdom** - First Tier Tribunal, case UKFTT 599 (TC) – Taxpayer status when engaging in non-economic business activities

The FTT has held that a taxpayer is not acting as a taxable person when it purchases investment management services related to a “non-economic activity” from suppliers established outside the EU. In this sense, these supplies are not located in UK and as a consequence of this the Taxpayer is not obliged to apply the reverse charge mechanism.

31/10/2018 **Italy** - Clarification to split payment system

The Italian Tax Authority published Ruling Answer No. 15 clarifying that supplies of goods and services to qualifying public bodies are subjected to the split payment system when:

- The respective supplies are made in Italy;
- These supplies are not VAT zero-rated or VAT exempt.

31/10/2018 **Italy** - Introduction of simplified settlement on disputes

The Law Decree no. 119, which was published on 23 October, introduced new provisions with the objective to facilitate the settlement of disputes raised in tax audits, tax assessment proceedings, tax disputes and claims entrusted to the collection agent.

29/10/2018 - European Court of Justice Case, C-153/17 – Right to deduct general costs in hire-purchase agreement

ECJ has ruled that the article 168 and 173(2)(c) of the VAT Directive, must be interpreted as the general costs incurred in a supply of moveable goods by hire purchase must be considered as a component of the price of the original supply and in this sense, a part of the VAT incurred in these general costs would be partially recoverable.

Furthermore, Member States must apply a method of apportionment which takes into consideration the initial amount of the goods when they were supplied.

29/10/2018 **Hungary** - VAT exemption threshold for SME

On 2 October 2018, Hungary has been granted, by the Commission, with an authorization that allows to apply the VAT exemption to taxable persons with an annual turnover below than EUR 48 000.

29/10/2018 **France** - New deadline to submit VAT refund claims

Decree no. 2018-865 of 8 October 2018 has established 30 September as the time limit to submit VAT refund claims by taxable persons established in an EU country other than France.

29/10/2018 **Ukraine** - Recoverability of input VAT

Tax Committee clarified that VAT invoices registered as of 1 July 2017 are the only document that can support a claim for VAT refund. Nonetheless, the State Fiscal Service (SFS) clarified that additional documents must also be submitted in order to be entitled for the deduction of the input VAT.

29/10/2018 **Belgium** - VAT on professional rent

From 1st January 2019, tax payers may opt to apply for VAT on professional rent, only when the construction of the respective building started as from 1st October 2018.

29/10/2018 **Hungary** - VAT on the leasing of passenger car

On 2 October 2018, the Commission has granted to Hungary an authorization that allows the derogation of the Articles 26(1)(a), 168 and 168a of the VAT Directive, enabling Hungary to fix a percentage to deduct the VAT incurred on the leasing of passenger vehicles.

29/10/2018 **Greece** - Circular regarding VAT exemption on customs warehousing

procedure

On 15 October 2018 was published the Circular 1184, which provides clarifications on the VAT exemption procedure for products in free circulation placed into customs warehouse and also on the placing of domestic products into a customs warehouse.

29/10/2018 **Switzerland** - Interest rates applicable from 2019

From 1 January 2019 the following rates will be applicable:

- 3% in interest rate for tax arrears and refunds;
- 0% in interest compensation rate for advance payments.

29/10/2018 **Denmark** - New guidance for input VAT incurred by holding companies

Following ECJ decision on case 320/17, published on the July VAT news, the Danish Tax Agency held that in order for the holding of shares to be considered as an economic activity, the holding company must be involved in the management of the subsidiary and the transactions performed are subject to VAT.

29/10/2018 **Italy** - Spesometro

Effective from 1 January 2019, the Spesometro will no longer be required for VAT registered residents and non-residents in Italy.

25/10/2018 - Application of the reverse charge mechanism

ECOFIN has recently decided that, by 30 June 2022, EU Member States may apply the generalized reverse charge mechanism when the following requirements are met:

- Member states have to demonstrate VAT gaps beyond 25% due to carousel fraud;
 - It can only apply to local supplies exceeding EUR 17,500 per transaction.
- Romania has the highest VAT gap in the EU, which would allow it to qualify for adopting such measure.

25/10/2018 **Bulgaria** - New e-services in Bulgaria

The National Revenue Agency is now providing, among others, the new following e-services:

- Submission of online applications for the issuing of certificates of tax residence;

- Notifications under the VAT Act.

25/10/2018 - European Court of Justice Case, C- 249/17 - Ryanair – Right to deduct input VAT

The ECJ has ruled that the right to deduct input VAT, on expenditure incurred in the context of a takeover bid, is not precluded, even if the takeover is ultimately aborted. The ECJ reasoned that Ryanair intended to pursue economic activities subject to VAT and therefore, even though the planned acquisition didn't move forward, Ryanair acted as a VAT taxable person at the time it incurred the expenditure.

25/10/2018 **United Kingdom** - Making Tax Digital (MTD)

Effective from 1 April 2019, companies that are registered for VAT in the UK and have a taxable turnover above GBP 85 000 are obliged to:

- Keep their VAT records digitally; and
- File their VAT returns using software that is compatible with MTD.

25/10/2018 **Bulgaria** - 2019 Intrastat thresholds

The National Statistical Institute announced the new intrastat thresholds, effective from 1 January 2019:

- Intrastat Dispatches - BGN 280,000;
- Intrastat Arrivals - BGN 460,000

In addition, the thresholds for declaring statistical value will be:

- Intrastat Dispatches - BGN 14,400,000;
- Intrastat Arrivals - BGN 7,400,000

The single low-value transactions threshold will remain the same: BGN 390.

15/10/2018 - “Quick Fixes” to VAT rules to take effect from 2020

The EU Council has agreed on the four main topics in relation to the “Quick Fixes” to be effective as from 1 January 2020:

- A simplified and uniform treatment for call-off stock arrangements;
- The VAT number of the customer becoming an additional condition to benefit from the VAT exemption for the intra-EU supply of goods;
- Uniform criteria for chain transactions;

- A common framework regarding the evidence required to claim a VAT exemption for intra-community supplies.

15/10/2018 **Latvia** - Council's decision regarding the reverse charge mechanism to supplies of ferrous and non-ferrous semi-finished metals

The EU Council has allowed Latvia to apply the reverse charge mechanism on the following supplies, until 30 December 2018:

- Ferrous metals;
- Non-ferrous semi-finished metals.

15/10/2018 - EU Council has agreed on generalized reversal of VAT liability

The European Council has agreed on the proposed derogation from the VAT Directive in order to combat VAT fraud.

Under the proposal, certain Member States will be able to apply the generalized reverse charge mechanism (GRCM) until 30 June 2020.

15/10/2018 **Romania** - Reduced VAT rate for tourism and related activities

Effective from 1 November 2018, the reduced VAT rate applies to:

- Accommodation provided by hotels and identical institutions (such as camping sites);
- Restaurant and catering services (save certain alcoholic beverages);
- Entry tickets to amusement and recreational parks;
- The right to use sporting facilities for sports events.

15/10/2018 **Austria** - Council's decision on the preclusion of the right to deduct VAT incurred on business goods and services used mainly for non-business purposes

The EU Council has allowed Austria to continue to exclude the right to deduct input VAT on goods and services used for more than 90% for non-business purposes, until 31 December 2021.

11/10/2018 **Bulgaria** - Deduction of input VAT incurred by a UK company through its BG branch

The Supreme Administrative Court has ruled that Bulgarian input VAT incurred by a British company cannot be deducted by its Bulgarian branch, as supplies made between a branch and its head office should be considered internal turnover.

Instead, the VAT incurred should be recovered through a refund under Directive 2008/9.

11/10/2018 **Estonia** - VAT on supplies of building lands

From 1 October 2018 the concept of the “building land” has been introduced. VAT must be charged on the supplies of building land if:

1. construction has been planned and
2. the land will be used for residential or commercial purposes.

11/10/2018 - Changes adopted by the European Union on the VAT system and on the tackle of VAT fraud

The Council of the European Union has published the final compromise texts on the following matters:

- Administrative cooperation;
- Quick fixes;
- General reverse charge mechanism;
- VAT rate on e-publications.